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August 31, 2021

The Honorable Patrick J. Schiltz
United States District Court
300 South Fourth Street
Minneapolis, MN 55415

Re: In re Blue Grand Jury
Court File No. 21-MC-0033 (PJS)

Dear Judge Schiltz:

As you may know, Defendant Thao filed a motion in Hennepin County District Court alleging that the State prosecution team was the source of information in a February 10, 2021 New York Times article about the Department of Justice's role in previous plea negotiations. *See* Notice of Motion and Motion For Dismissal And To Sanction Keith Ellison, Matthew Frank, And Neal Katyal, Hennepin County District Court File No. 27-CR-20-12949, docket #336. Counsel for Mr. Thao asserted that using deductive reasoning, the "leak had to have come from the State." *Id.* at 2. The codefendants each have joined this motion, which is scheduled to be heard before Judge Cahill on Thursday, September 2, 2021 at 9:00 a.m.

At our appearance before Your Honor on June 30, 2021, you informed us that the Chief of Staff for the incoming Attorney General had acknowledged to Chief Judge Tunheim that the Civil Rights Division of the Department of Justice had been the source of information in a newspaper article, and I understood that was about the February 10, 2021 New York Times article discussing the Department of Justice's role in the plea negotiations. If I understood you correctly and in fact the Chief of Staff acknowledged to Chief Judge Tunheim that the source of the information in the February 10, 2021 New York Times article was somebody in the Department of Justice, I respectfully request your authorization to provide that information to Judge Cahill and Counsel for each of the codefendants. The Department of Justice's acknowledgement directly refutes the assertion in the motion that the information "had to have come from the State" and would significantly reduce the time and work spent by Judge Cahill to hear the motion.

The disclosure of the information to me about the Department of Justice being the source of the New York Times article also puts me in a difficult situation. On May 17, 2021, I submitted an affidavit to Judge Cahill indicating, *inter alia*, that I did not know who the source of the information was. I now question whether I need to submit an amended affidavit to Judge Cahill, or how I would answer if Judge Cahill asked me if we have any more information about the source; under both scenarios I am not comfortable disclosing the information you provided in court without your specific approval.

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Given the nature of the hearing at which you provided this information, I thought it best to seek your specific authorization to release this information to Judge Cahill and the moving parties. I of course remain completely open to your suggestions or direction on how to communicate this to Judge Cahill and the moving parties if you so authorize. Thank you for your consideration.

Sincerely,

s/Matthew Frank

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cc: Anders Folk, Acting U.S. Attorney